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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/597,182      | 07/14/2006  | Ferry Zijp           | NL040036            | 7267             |

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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| EXAMINER |
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ORTIZ CRIADO, JORGE L

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| ART UNIT | PAPER NUMBER |
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2627

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| MAIL DATE | DELIVERY MODE |
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10/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |  |                                    |  |
|------------------------------|--|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/597,182     | <b>Applicant(s)</b><br>ZIJP ET AL. |  |
|                              | <b>Examiner</b><br>JORGE L. ORTIZ CRIADO | <b>Art Unit</b><br>2627            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 0206.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

Figures 1, 2 and 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-11 and 13 are rejected under 35 U.S.C. 102(b) as being b by Tada et al. U.S. Patent No. 6,370,093.

As per claim 1, Tada et al. discloses a focus control apparatus (Fig. 27) for controlling objective means (60) to focus a radiation beam onto a first spatial level of a record carrier (1),

Art Unit: 2627

said apparatus comprising: (a) a focus control loop having a detection means (FE, 45) for detecting a signal obtained from a reflection of said radiation beam at said record carrier (1), and an actuator means (47) for adjusting the position of said objective means (60) in response to said detected signal; and focus control means (55) for controlling said actuator means to move said objective means (60) towards said record carrier (1),

locking the focus to a reflection signal stemming from a second spatial level of said record carrier (1), opening said focus control loop, and controlling said actuator means to move said objective means (by a predetermined amount related to a distance between said first and second spatial levels (see Figs. 30, 31, 32).

As per claim 3, Tada et al. discloses wherein said first spatial level corresponds to a data layer (5; 9) of said record carrier and said second spatial level corresponds to an other data layer (5; 9) of said record carrier (Fig. 1).

As per claim 4, Tada et al. discloses wherein multiple spatial levels exist in which any of said spatial levels can be selected as said first spatial level and any other spatial level can be selected as said second spatial level (Multiple layers, hence multiple spatial levels exist that can be selected).

As per claim 5, Tada et al. discloses wherein said first spatial level corresponds to a first negative-slope zero crossing of a focus error signal detected by said detection means and said

Art Unit: 2627

second spatial level corresponds to second negative slope zero crossing of said focus error signal (see Figs. 31, 32; zero cross point shown).

As per claim 6, Tada et al. discloses wherein said move of said objective means by said predetermined amount is achieved by a jump operation initiated by said focus control means (see Figs. 30, 31, 32).

As per claim 7, Tada et al. discloses wherein said jump operation is initiated by said focus control means by applying a predetermined jump pulse to said actuator means (see Figs. 30, 31, 32).

As per claim 8, Tada et al. discloses wherein said predetermined amount corresponds to an effective optical thickness between said first and second spatial levels (see col. 21, table 2; col. 22 lines 1-11).

As per claim 9, Tada et al. discloses wherein said focus control means is configured to close said focus control loop again after said move of said objective means by said predetermined amount (see Figs. 31, 32; at zero crossing point).

As per claim 10, Tada et al. discloses wherein said focus control means is configured to control said actuator means to reduce the relative velocity between said objective means and said

Art Unit: 2627

record carrier to zero, when said locking to said second spatial level has been detected (see col. 22 lines 30-33).

As per claim 11, is drawn to the disc player comprising a focus control apparatus as claimed in claim 1 and is rejected for the same reason of anticipation.

As per claim 13, is drawn to the method performed in the control apparatus outlined above and is rejected for the same reason of anticipation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tada et al. U.S. Patent No. 6,370,093 in view of Applicant's Admitted prior art.

Tada et al. teaches that the record carrier is a optical record carrier.

Although Tada et al. does not expressly disclose magneto-optical such record carrier is the well known record carrier, as Applicant's own admission.

.It would have been obvious to one of an ordinary skill in the art to use magneto-optical record carriers as well, for the same the benefits that such record carriers have.

Art Unit: 2627

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tada et al. U.S. Patent No. 6,370,093 in view of Ishibashi et al. WO02067250 (see equivalent document US Patent Application Publication 2004/0076090).

Tada et al. teaches where the second spatial level correspond to a data layer, and/or the first spatial layer is also correspond to a data layer, but does not expressly disclose whether the first spatial level is a surface of said record carrier.

However, focusing control from a surface as a first spatial level to correspond of a surface of a record carrier is well known as evidenced by Ishibashi et al. (see Figures 1 and 2).

Hence, it would have been obvious to one of an ordinary skill in the art to use the surface as well, in order to effectively focus control to a first data layer stably, as suggested.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JORGE L. ORTIZ CRIADO whose telephone number is (571)272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/  
Primary Examiner, Art Unit 2627